

### **REMARKS**

Entry of the foregoing amendments, and reexamination of the subject application pursuant to and consistent with 37 CFR 1.112, and in light of the remarks which follow are respectfully requested. The present amendments are made to expedite prosecution without prejudice to the deleted subject matter being pursued in a continuing or a related application.

It is anticipated that the present claims should be free of the previous rejections and objections. The previous objections and rejections are addressed below.

The previous formal objections are not applicable to the current claims.

Claims 235-286 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed to the extent it may be applicable to the claims as amended.

The meaning of “putatively” modulates T1R3 associated taste was urged to be indefinite. In response thereto Applicants respectfully note that this simply means that the ligands identified in the claimed T1R3 screening assays likely modulate human taste but this likelihood ideally should be confirmed in a taste test. T1R3 It is believed that this would be clear to a skilled artisan especially in view of the dependent claims that include a confirmatory taste test. However, if the Examiner prefers such word may be deleted as it is not required for an understanding of the claimed invention.

The further objection that T1R3 associated taste is ambiguous is now moot as the claims as amended provide for the T1R3 polypeptide to bind a sweet ligand. As acknowledged by the

Examiner in the parent application of this application US Serial No. 09/799,629 this application at least adequately teaches the role of T1R3 in sweet taste perception. Therefore the meaning of T1R3 associated taste has a definite meaning.

Additionally, the Examiner asserts that the meaning of a compound suitable for use in the claimed competitive binding assays is unclear because it is uncertain from the specification what compounds bind T1R3 and would be useful in competitive assays. It is anticipated that alleged ambiguity this should now be moot as the current claims provide for the T1R3 receptor polypeptide to specifically bind a sweet ligand. Hence it would be apparent to a skilled artisan that a compound potentially useful in the claimed competitive binding assays would include by way of example natural and artificial sweet ligands..

Additionally, the claims are asserted to be indefinite in failing to recite the specific hybridization conditions and further for claiming assays which use T1R3 polypeptide fragments. These alleged ambiguities are now moot as the claims are revised herein to include the specific stringent hybridization conditions and further to delete the use of T1R3 fragments. As noted supra, such amendments are made without prejudice in order to expedite prosecution.

Based on the foregoing, withdrawal of the 112 second paragraph rejection of claims 235-286 is respectfully requested.

Claims 235-286 were also rejected under 35 USC 112 first paragraph as allegedly being non-enabled. The three bases for the rejection were that (i) the claimed assays embraced fragments of T1R3 which are allegedly non-enabled, and (ii) the claimed assays encompassed the use of sequences that hybridize without a means of selecting those that encode useful

polypeptides, i.e., those that are useful in the claimed taste modulatory compound assays (absent a functional limitation) and (iii) that the specification did not enable the claimed assays since it is uncertain from the specification what compounds specifically bind T1R3.

This rejection is respectfully traversed to the extent it may be applicable to the claims as amended. In this regard, with respect to the first basis of rejection, as noted above the claims are amended herein to delete reference to use of T1R3 polypeptide fragments. Hence the assertion that the as-filed specification does not enable the use of T1R3 fragments is now moot.

With respect to the second basis for alleged non-enablement, the claims now require that the T1R3 nucleic acid sequences hybridize under defined stringent hybridization conditions and further require that the T1R3 polypeptide encoding sequence encode a T1R3 polypeptide that specifically binds a sweet ligand in the claimed assays. Hence the skilled artisan would have a means for identifying and selecting T1R3 encoding sequences useful in the claimed assays. Based on the extensive information in the as-filed specification and the high level of skill in the relevant art practice of the full scope of the invention would not require undue experimentation.

With respect to the third basis of the rejection the Examiner has acknowledged during the prosecution of the parent application that the specification adequately enables/describes the role of the subject T1R3 receptor polypeptide at least in sweet taste perception. Therefore, it would be clear to a skilled artisan that compounds useful in the claimed assays would include natural and artificial sweeteners as well as compounds structurally related thereto and compounds which are to be assayed for their effect if any on sweet taste transduction. Therefore, based on the teachings of this application a skilled artisan would be aware of compounds that could be used in

the claimed assays for identifying compounds that modulate taste that is T1R3-associated and could practice same absent undue experimentation.

Based on the foregoing, withdrawal of the 112 enablement rejection of claims 235-286 in its entirety is respectfully requested.

Claims 235-286 were also rejected under 35 USC 112 first paragraph as allegedly not satisfying the written description requirement. The bases for this rejection correspond to the 112 enablement rejection of the same claims. Therefore Applicants traverse the rejection for the same reasons set forth above in the traversal of the enablement rejection. It is believed that based on these arguments and the present amendments that the written description rejection of claims 235-286 should be vacated.

### **CONCLUSION**

It is anticipated that the present amendments will place the case in condition for allowance.

Based on the foregoing, a Notice to that effect is respectfully solicited. Reconsideration and allowance of all claims are respectfully requested. If any issues remain after consideration of this Amendment, Examiner Brannock is respectfully requested to contact the undersigned by telephone (202-419-2018) so that these issues can be resolved by Examiner's Amendment or a Supplemental Response.

Applicants believe that no fee is due with the filing of this Amendment. However, in the event that the calculations of the Office differ, Commissioner is hereby authorized to charge or credit any such variance or credit any overpayment to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

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By:



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